

### REMARKS

Upon entry of this amendment, claims 26, 29-31, 33, 36-43, and 47-60 are currently pending in this application. Claims 11, 14, 15, 17-21, 26, 28-31, 33, 35-38, and 44-46 have been rejected. Claims 39-43 and 47-60 are withdrawn from consideration. Claims 1-25, 27, 28, 32, 34, 35, 44-46, and 61 are canceled. Claims 26 and 33 have been amended. Claims 26, 29-31, 33, and 36-38 are under consideration.

Reconsideration and allowance of the application in light of the foregoing amendments and the following remarks are respectfully requested.

#### **Listing of Claims**

On page 2 of the Office Action the Examiner stated that the Amendment filed on December 11, 2008 was non-compliant because the Listing of Claims did not contain the withdrawn claims 39-43 and 47-60. Accordingly, the present Listing of Claims includes claims 39-43 and 47-60.

#### **Withdrawn Claim Rejections Under 35 USC §112, Second Paragraph**

A) The Examiner stated on page 3 of the Office Action that the rejection of claims under 35 USC §112, second paragraph for the recitation of “KG1” has been withdrawn in view of the amendments to the claims.

B) The Examiner stated on page 3 of the Office Action that the rejection of claims under 35 USC §112, first paragraph for the recitation of “KG1” has been withdrawn in view of the amendments to the claims and evidence of availability of the KG1 cell line from ATCC.

C) The Examiner stated on page 3 of the Office Action that the rejection of claims under 35 USC §112, first paragraph for the recitation of “at least one amino acid residue” has been withdrawn in view of Applicants arguments and the amendments to the claims.

#### **Claim Rejections Under 35 USC §112, First Paragraph**

The Examiner rejected claims 26, 28-31, 33, 35, and 44-46 under 35 USC §112, first paragraph, contending that the claims do not contain sufficient written description for the recitation “at least one amino acid substitution at a position selected from” the recited amino acid positions. Not in acquiescence

of the rejection but in order to expedite allowance of the claims, Applicants have amended the claims to include the recitation of specific amino acid substitutions in claim 26 and 33.

In view of the foregoing amendments and remarks, Applicants respectfully request the removal of the rejection of claims 26, 28-31, 33, 35, and 44-46 under 35 USC §112, first paragraph.

#### **Claim Rejections Under 35 USC §103(a)**

The Examiner rejected claims 11, 14-15, 17-21, and 44-46 under 35 USC §103(a) as being unpatentable over Kucherlapati et al. (US Patent No. 6,075,181) and Dinarello et al. (1998) J. Leukoc. Biol. 63:658-664.

Applicants submit that the above-cited references, either singularly or in combination, do not teach, suggest, or motivate one skilled in the art, to make Applicants' human anti-IL-18 antibodies or methods of making the same as recited by the claims as amended, for the reasons of record.

Not in acquiescence of the rejection but in order to expedite allowance of the claims, Applicants have cancelled claims 11, 14-15, 17-21, and 44-46, without prejudice, and intend to file those claims, or claims of greater or lesser scope, in a continuation application.

In view of the foregoing remarks, Applicants respectfully request withdrawal of the rejection of claims 11, 14, 15, 17-21, and 44-46 under 35 USC §103(a).

#### **Obviousness-Type Double Patenting**

The Examiner has provisionally rejected claims 11, 14-15, 17-21, 26, 28-31, 33, 35-38, and 44-46 under the judicially created doctrine of obviousness-type double patenting over claims 19-33, 61-63, 75-76, and 80-113 of USSN 10/988,360. Applicants respectfully submit that they will take this matter under consideration once the claims in USSN 10/988,360 or the instant case are allowable.

#### **Patentably Indistinct Invention**

The Examiner has provisionally rejected claims 11, 14-15, 17-21, 26, 28-31, 33, 35-38, and 44-46 under the judicially created doctrine of obviousness-type double patenting over claims 19-33, 61-63, 75-76, and 80-113 of USSN 10/988,360. Applicants respectfully submit that they will take this matter under consideration once the claims in USSN 10/988,360 or the instant case are allowable.

***Conclusion***

In view of the foregoing amendments and remarks, Applicants believe that the rejections set forth in the Office Action dated March 4, 2009 have been overcome and consequently that all claims are in condition for allowance. Applicants, therefore, respectfully request reconsideration and removal of the rejections, and allowance of the claims as amended.

Respectfully submitted,

/Diana M. Steel/

Diana M. Steel, D.Phil.  
Registration No. 43,153  
Attorney for Applicants  
Abbott Bioresearch Center  
100 Research Drive  
Worcester, MA 01605  
Telephone: (508) 688-8048  
Telefax: (508) 688-8110

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